

REMARKS

Claims 1-15 are pending in the application. Reconsideration of this application is respectfully requested.

Applicants and Applicants' attorney wish to express with appreciation the telephone interview with the Examiner conducted on May 17, 2004. The Examiner was kind enough to discuss the pending claims and the cited and relied upon Hager reference in an effort to advance prosecution of the present application.

The Office Action rejects claims 1-9, 11, and 13-15 under 35 USC 103(a) as being unpatentable over Hager et al. (hereinafter Hager). This rejection is traversed.

Applicants' arguments of record are incorporated herein.

Regarding the telephone interview, Applicants' discussion emphasized the differences between the claimed method for providing a comparative listing of providers of an item and the disclosure of the Hager, as cited and relied upon the Office Action. In particular, claim 1 was contrasted with the disclosure of Hager, including paragraphs [0032] and [0033] thereof.

Applicants' claim 1, a method for providing a comparative listing of providers of an item, states, in relevant part,

requesting a term of offer related to said item;

obtaining said requested term of offer for said item from at least one product/service provider;

adjusting, in response to obtaining said requested term of offer for said item, a second term of offer for said item from a host provider;
and

presenting said requested term of offer for said item obtained from said at least one product/service provider and said adjusted second term of offer from said host provider to a data requestor device over a communications link. (emphasis added)

Clearly, Applicants claim a method that includes adjusting a second term of offer for the item from a host provider. The adjusting of the second term of offer, from the host provider, is made in response to obtaining the requested (i.e., **first**) term of offer for the item from the at least one product/service provider.

Thus, it is clear that Applicants' claimed method has a first term of offer and a second term of offer for a particular (i.e., "said") item. Also unambiguous from claim 1 is that the second term of offer from the host provider is adjusted in response to obtaining the requested (i.e., first) term of offer from the at least one product/service provider.

Therefore, Applicants' claimed method is dynamic. Applicants claimed method is dynamic since, at least, the second term of offer from the host provider is adjusted in

response to obtaining the requested (i.e., first) term of offer from the at least one product/service provider. That is, in accordance with Applicants' claimed dynamic method, obtaining the requested term of offer from the at least one product/service provider triggers or causes the adjustment of the second term of offer from the host provider.

Referring to Hager, Applicants respectfully reiterate that which was discussed in the above-mentioned telephone interview. In particular, Applicants respectfully submit that Hager fails to disclose or suggest a method having Applicants' claimed "adjusting, in response to obtaining said requested term of offer for said item, a second term of offer for said item from a host provider."

In contrast to Applicants' claimed method, Hager discloses a consumer shopping tool that provides, inter alia, a price comparison listing for a consumer's list of desired products. The price listing disclosed by Hager is fixed, i.e., static, with respect to any price or term of offer obtained from a retailer for the consumer's list of desired products. Hager does not disclose or suggest at any point in the disclosure thereof that a second term of offer or price is adjusted in response to a requested (i.e., first) term of offer for a particular item.

Hager discloses that a consumer can "submit a list of desired products, and receive a list of store specials, a shopping list price or total comparison and special promotion offers." (see Hager, paragraph [0032]) That is, Hager provides, in response to the consumer's submitted list of desired products, a list of store specials, a total

price for the consumer's list of desired products (i.e., a total comparison), and special promotions. The list of store specials, a shopping list price or total comparison and special promotion offers are not disclosed as being adjusted or changed in response to any term of offer or price. Per Hager, the consumer submits a shopping list of desired products and the Hager system provides a static list of the store specials, a shopping list price or total comparison and special promotion offers on file for the consumer's desired shopping list. No second price or term of offer is disclosed let alone a second price or term of offer adjusted in response to a first requested term of offer. Hager discloses merely providing the current (i.e., updated or prevailing) list of store specials, a shopping list price or total price comparison and special promotion offers on file for the desired list of products.

The static nature of the total price and promotions provided by Hager is further emphasized in Figures 4 and 5. The overall flow process illustrated in Figure 4 shows the updated retail database 404 provides current pricing data to the product database 408, and updated ESL pricing and promotional database 406 provides updated, current pricing to the ESL pricing database 410. The product database 408 and the ESL pricing database 410 provide pricing data for computing the price and tax (process 420) for the consumer shopping list. Hager discloses that the total cost for the entered list of desired products is computed at 420 and that "special pricing (such as promotions and/or tiered pricing) information may also be determined and displayed at 420.

It is noted that the disclosed promotions and/or tiered pricing are not provided in response to any requested term of offer from a host/service provider, as in claim 1. Instead, the disclosed promotions and/or tiered pricing, if any, are provided in response to the consumer's shopping list of desired products.

As illustrated in Figure 5, the Hager shopping tool enables a retailer to merely create, update, and delete store promotions 500 and advertisements 502 that will be transmitted to consumers. (see Hager, paragraph [0025] and Figure 5) Also shown in Figure 5, the ESL pricing can be created, updated, and deleted. Regarding the updating of ESL pricing, promotions, and advertisements, Hager only discloses updating the ESL pricing, promotions, and advertisements with respect to time, to maintain current the ESL pricing, promotions, and advertisements databases. (see Hager, paragraphs [0007], [0018], and [0022]) Hager does not disclose or suggest that the ESL pricing, promotions, and advertisements are adjusted, let alone in response to a requested term of offer from a host provider, as claimed by Applicants.

Again, claim 1 states "adjusting, in response to obtaining said requested term of offer for said item, a second term of offer for said item from a host provider" (emphasis added) In contradistinction to claim 1, Hager does not disclose or suggest that the web services system (100, 200), a system administrator, or a host provider of the Hager system, adjusts a second term of offer. Neither Hager's web services system (100, 200) nor a system administrator or host provider thereof are disclosed or

suggested as providing a second (or any) term of offer. The disclosed web services system (100, 200), system administrator, and host provider are disclosed as providing the infrastructure and administrative control for facilitating the comparison shopping tool of Hager. (see Hager, paragraphs [0005] through [0010], [0017], and [0018])

Thus, it is clear that the cited and relied upon Hager does not disclose or suggest Applicants' claimed adjusting, in response to obtaining said requested term of offer for said item, a second term of offer for said item from a host provider. Accordingly, claim 1 is not obvious under 35 USC 103(a) in view of Hager. Applicants respectfully request the reconsideration and withdrawal of the 35 USC 103(a) rejection of claim 1.

Claims 2 through 9, 11, and 13 through 15 depend from claim 1. It is respectfully submitted that claims 2 through 9, 11, and 13 through 15 are patentable over Hager under 35 USC 103(a) for at least the reasons discussed above regarding claim 1.

Therefore, it is respectfully requested that the 35 USC 103(a) rejection of claims 1 through 9, 11, and 13 through 15 be reconsidered and withdrawn.

Regarding the rejection of claim 10 under 35 USC 103(a) as being unpatentable over Hager in view of an obvious design choice, it is submitted that the aspect of determining if the host provider itself offers the item is not an obvious design choice. Applicants submit that the

comparative shopping tool of Hager, and other such tools as described in Applicants' Background section of the application, provide a price listing of prices from a number of retailers/manufacturers that is known. These tools specifically provide the static service/functionality of providing the comparative price listings. Such systems do not provide the dynamic pricing comparative pricing system of Applicants' claimed invention. The Hager system pricing is not dynamic, it merely provides an updated listing of prices offered by retailers/manufacturers. Even in the event Hager were to provide an item (not admitted by Applicants), there is no disclosure or suggestion therein for Hager to dynamically adjust the price, as claimed by Applicants. Thus, the aspects of claim 10 are neither obvious nor inherent (i.e., necessary) in Hager.

Claim 12 was rejected under 35 USC 103(a) as being unpatentable over Hager as applied to claim 1 and in further view of Trubey et al. (hereinafter Trubey). This rejection is traversed.

Claim 12 depends from claim 1. The many failings of Hager regarding claim 1 are fully discussed above. Trubey is cited and relied upon for disclosing that it is common for a host site to receive a commission or referral fee for helping buyers find products on the internet. The Office Action concludes that it would have been obvious for one of ordinary skill in the art at the time of the invention to modify Hager to have the second term of offer include a price margin for the host provider in order to pay the host provider for its valued added service.

It is also noted that the commission or referral fee of Turbey is not the same as, or suggestive of, Applicants' claimed second term of offer of the item to include a minimum price margin for the host provider. The claimed second term of offer for the item is not a referral fee or a commission but a term of offer for the item itself.

Again, as discussed in Applicants' reasoned arguments above regarding claim 1, Hager does not disclose providing a second term of offer from the host provider or adjusting the second term of offer. Therefore, combining Trubey with Hager fails to render claim 12 obvious.

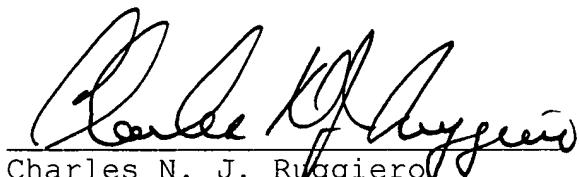
Therefore, it should be clear that any reliance on Hager, even when combined with Trubey, would not render claim 12 obvious. Applicants respectfully submit that claim 12 is patentable over the alleged combination of Hager and Trubey.

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For at least the reasons set forth above, it is submitted that the rejections of claim 1 through 15 under 35 U.S.C. 103(a) are erroneous and should be withdrawn.

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Date



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